

EX PARTE OR LATE FILED

Squire, Sanders & Dempsey

U. S. Offices:
Cleveland, Ohio
Columbus, Ohio
Jacksonville, Florida
Miami, Florida
New York, New York
Phoenix, Arizona

International Offices:
Brussels, Belgium
Budapest, Hungary
London, England
Prague, Czech Republic

Counsellors at Law
1201 Pennsylvania Avenue, N. W.
P. O. Box 407
Washington, D. C. 20044-0407

March 20, 1995

Telephone: (202) 626-6600
Cable Squire DB
Telecopier: (202) 626-6780

Direct Dial Number
(202) 626-6624

RECEIVED

MAR 20 1995

COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

BY HAND

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: CC Docket No. 92-256; The GTE Telephone
Operating Companies and the GTE System
Telephone Companies; Petition for Waiver of the
Commission's GTE ONA Order Requirement to
File an Interstate ONA Tariff on April 4, 1995

Comments of the State of Hawaii

Dear Mr. Caton:

On behalf of the State of Hawaii (the "State"),¹ we hereby submit these comments in response to GTE's above-referenced waiver request and its ex parte filing of March 6, 1995.² The State urges the Commission to deny the waiver with regard to GTE Hawaiian Telephone Company because the request for delay is untimely and because a delay in the filing of an ONA tariff in Hawaii will adversely impact the State's own investigation of infrastructure issues.

¹ This pleading is submitted by the State's Department of Commerce and Consumer Affairs.

² See Letter of Edwin J. Shimizu to Laurel Bergold and Rose Crellin (filed March 6, 1995). GTE's Waiver Request appeared on Public Notice on March 9, 1995 (DA 95-454).

No. of Copies rec'd
List A B C D E

045

William F. Caton, Acting Secretary

March 20, 1995

Page 2

BACKGROUND

According to the GTE ONA Order,³ GTE is required to file federal and state ONA tariffs by 12 months after the release of the Order, or by April 4, 1995. GTE must implement ONA requirements and nondiscrimination safeguards within 15 months from the release of the Order.⁴

Now, almost a year after the Commission's Order, GTE requests two waivers. In January, GTE requested a waiver of the requirement to file federal and state tariffs simultaneously. This month, only five weeks before its tariff filing deadline, GTE has sought to delay the filing of the interstate tariff. In other words, GTE not only seeks to push back the filing deadline for its intrastate tariffs, but by its second waiver request, it aims to push the intrastate filing date back even further by delaying the filing of its interstate tariff. As justification for the request, GTE cites the complexity and burden of filing an interstate ONA tariff on April 4 when its 1995 Annual Access filing is due March 31, 1995.

DISCUSSION

The State has been an active participant in this proceeding since its inception. It has strongly urged the Commission to bring the benefits of ONA requirements to the people of the State. In this vein, the State recently protested GTE's request to defer the filing of its intrastate ONA tariff for Hawaii.⁵ The State opposes the instant waiver request for similar reasons.

First, GTE's reference to the burden of the filing deadline should not be heard. GTE has known since April of 1994 that this requirement stood before it. It did not petition the Commission to reconsider the requirement. It should not be allowed to circumvent the requirement on the eve of its effective date.

³ Application of Open Network Architecture and Nondiscrimination Safeguards to GTE Corporation, Report and Order, 9 FCC Rcd 4922 (1994) (the "GTE ONA Order").

⁴ Id. at 4954.

⁵ Letter of Herbert E. Marks to William F. Caton, CC Docket No. 92-256 (filed March 10, 1995).

Squire, Sanders & Dempsey

William F. Caton, Acting Secretary

March 20, 1995

Page 3

Second, the State of Hawaii has a particular interest in seeing GTE's ONA tariff for the state in the very near term. The State Public Utilities Commission ("PUC") is in the midst of a far-reaching examination of telecommunications investment and infrastructure issues. In phase I of the investigation, the PUC is examining such issues as encouraging competition, ensuring consumer protection, encouraging technological innovation, and developing pricing flexibility for GTE Hawaiian Telephone Company. Of particular importance to the principles of ONA, the investigation will examine the unbundling of telecommunications products and services.

In an order released February 15, 1995, the PUC restated its desire to finish phase I in 1995, and towards that end, it announced a very tight hearing schedule, with final pre-hearing submissions to be made by April 21, 1995 and a hearing commencing May 22, 1995. The State believes that GTE's ONA tariffs should be available at the date originally stipulated by the Commission so that this information can be available for this proceeding.⁶ Any delay, be it at the federal or state level, will limit the reach of the investigation.

⁶ GTE also seeks a delay in the federal filing deadline. See Public Notice, March 9, 1995 (DA 95-454). Hawaii may comment on that request later. Any such delay, however, will further prejudice the State's interest.

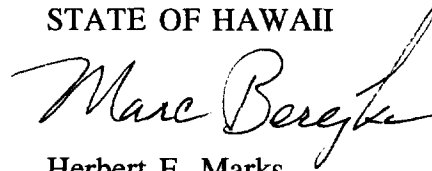
Squire, Sanders & Dempsey

William F. Caton, Acting Secretary
March 20, 1995
Page 4

For these reasons, the State of Hawaii respectfully requests that the Commission deny GTE's waiver request as it pertains to GTE Hawaiian Telephone Company.

Sincerely,

STATE OF HAWAII



Herbert E. Marks
Marc Berejka

Its Attorneys

Kathryn Matayoshi, Director
Ben Fukumota, Deputy Director
DEPARTMENT OF COMMERCE
AND CONSUMER AFFAIRS

Charles W. Totto,
Executive Director
DIVISION OF CONSUMER ADVOCACY

STATE OF HAWAII

cc: Peggy Reitzel, Esq. (by hand)
Laurel Bergold, Esq. (by hand)
Rose Crellin, Esq. (by hand)
Gail L. Polivy, Esq.
ITS, Inc. (by hand)